

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | CRIMINAL ACTION NO. |
| v. |) | 2:17cr328-MHT |
| |) | (WO) |
| LASONYA ATWOOD |) | |

OPINION AND ORDER

This cause is before the court on defendant Lasonya Atwood's motion to continue. For the reasons set forth below, the court finds that jury selection and trial for Atwood, now set for August 6, 2018, should be continued pursuant to 18 U.S.C. § 3161(h).

While the granting of a continuance is left to the sound discretion of the trial judge, *see United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

Id. § 3161(c)(1). The Act excludes from the 70-day period any continuance based on "delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant." *Id.* § 3161(h)(1)(A). It also excludes continuances grounded in "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." *Id.* § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." *Id.* § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Atwood in a speedy trial.

Atwood is currently held at the Federal Medical Center, Carswell, for a mental-health evaluation of her competency to stand trial and of her sanity at the time of the alleged offense. The Bureau of Prisons ("BOP") has orally represented to the court that the results of this examination would be submitted by July 25, 2018, fewer than two weeks before the current trial date. A continuance in this matter is therefore warranted to allow the BOP sufficient time to complete the evaluation and report, and to allow Atwood and her counsel time to confer and decide on a course of action in light of the results. The government does not oppose a continuance.

Accordingly, it is ORDERED as follows:

(1) Defendant Lasonya Atwood's motion to continue (doc. no. 65) is granted.

(2) The jury selection and trial for defendant Atwood, now set for August 6, 2018, is reset for November 5, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 19th day of July, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE